

QUEEN'S BENCH, IRELAND (MR. BLACKHAM).

RETURN to an Order of the Honourable The House of Commons,
dated 16 June 1876;—for,

COPY "of all CORRESPONDENCE between the Treasury and the Lord Chief Justice of Ireland with respect to the Appointment of Mr. Blackham to an Office in the COURT OF QUEEN'S BENCH in Ireland."

Treasury Chambers, }
29 June 1876.

W. R. SMITH.

— No. 1. —

Mr. Hugh Lane to the Secretary of the Treasury.

Sir,

Queen's Bench Offices, Dublin, 16 May 1876.

I HAVE the honour to submit, for the information of the Lords Commissioners of Her Majesty's Treasury, that Mr. William E. Hamilton, one of the clerks for many years in these offices, and who, since February 1869, has held the office of senior second-class clerk, has resigned, being unable, from ill-health, longer to perform his duties, and that the Lord Chief Justice has nominated Mr. Charles Patrick Blackham to the office of junior third-class clerk, rendered vacant by the resignation of Mr. Hamilton.

The Secretary,
Treasury, Whitehall, London.

I have, &c.
(signed) Hugh Lane, Master.

— No. 2. —

The Secretary of the Treasury to the Lord Chief Justice of Ireland.

(8435—76.)

My Lord,

Treasury Chambers, 18 May 1876.

THE Lords Commissioners of Her Majesty's Treasury have been informed by the Master of the Court of Queen's Bench that a vacancy has occurred in the office of the senior second-class clerk of that court, by the resignation of Mr. W. E. Hamilton, and that the office of junior third-class clerk having become vacant in consequence of this resignation, your Lordship has nominated Mr. C. P. Blackham to fill this latter vacancy.

My Lords are quite aware that, under the terms of the Statute, your Lordship has the power to make this appointment; but they think it their duty to call your attention to the fact, that the staff of the Masters' offices of the three superior courts in Ireland was, some years back, admitted by the Masters themselves to the English and Irish Law and Chancery Commission to be in excess of the requirements, and that it was anticipated that a consolidation of offices might be made which would effect a reduction of numbers to a greater extent than the subsequent legislation has as yet accomplished.

The Irish Judicature Bill which is now before Parliament contains provisions for such a consolidation of offices as the union of the existing courts into one supreme court may render necessary and expedient.

It is, therefore, not improbable that when the Bill becomes law it may be found necessary to make some extensive modifications in the offices of the superior courts of law; and under these circumstances my Lords think it right to intimate that, as it is now proposed to create a new interest in one of these offices, and as Mr. Blackburn will take office with a full knowledge of the changes which are in prospect, they will not consider that he has established any claim to compensation if, in consequence of these changes, it is found necessary to abolish the office which he holds; and they will feel it their duty to take such steps as they may consider to be called for to resist such claim.

The Lord Chief Justice,
Court of Queen's Bench, Ireland.

I am, &c.
(signed) W. H. Smith,

— No. 3. —

(8435—76.)

The Lord Chief Justice of *Ireland* to the Secretary of the Treasury.

Sir,

Queen's Bench, Dublin, 22 May 1876.

I ASSUME I am addressing the Secretary to the Treasury, and therefore I reply to the communication I have had the honour of receiving from the Treasury, and bearing your signature.

It is true the Statute law of the land imposed upon me the duty of appointing a qualified person to fill the lowest clerkship in the official department of the Court of Queen's Bench. Not having the power of dispensing with the obligation imposed by an Act of Parliament, and having satisfied myself by inquiry of the necessity of filling the vacancy, and of the fitness of the individual chosen, I made the appointment, to which I understand you formally to object; and while you do so, you take no trouble to suggest any course to be pursued, save that of obedience to the Statute 30 & 31 Vict. c. 129, s. 42, which leaves no option to the Chief Justice in the matter, and passes by the officials of the Treasury unnoticed. I have to acquaint you that the saving effected by that Statute was considerable.

My duty, as Chief Justice, is to take care that the pressing business of the court be performed, and that justice be administered to the suitors with efficiency and dispatch. These high considerations cannot be attained without a trained staff, and there is no power to cast the duties of one officer upon another against his will.

You invite my attention to what you describe as a fact, but which is not a fact which you can reasonably present to my consideration. Your reference must be to evidence, which you say was given by the then Masters many years ago, before the Commissioners appointed to inquire into the judicial departments in Ireland. But you should have remembered that evidence, if it was given, was heard and well considered by the able and distinguished personages who sat on that Commission; that they presented an elaborate report on the subject entrusted to their investigation, contained in a Blue Book in your Treasury Chambers; that on the same report the well-drawn Statute 30 & 31 Vict. c. 129, was passed, regulating the departments of the law courts, on which Statute I have since acted, and must continue to act, unless I violate my oath. You perceive, therefore, your fact is valueless in this matter in which you have interfered.

On receipt of your communication, I sent for the Master of the Queen's Bench, who is eight years in office, and I interrogated him as to whether he ever made any such statement as referred to in your letter. He assured me he never did,

did, and further, touching the matter in hand, addressed to me a letter calling my attention to the necessity of filling up the vacant clerkship.

The reasonable inquiry to have made with a view to future legislation would have been, whether the business of this court had increased or diminished since the Commission and Statute. That question was proposed to me officially by the Duke of Abercorn, for the information of the Treasury, as he represented. A careful inquiry was accordingly made, and a full and exact return prepared and sent in to the Castle, and, of course, forwarded to the Treasury Chambers. I refer to that truthful document to disabuse your mind of any erroneous statement you may have heard upon the subject.

Another report was subsequently asked for from me by the Duke of Abercorn (as he wrote) for the Treasury, namely, of each and all the officers of the court; of their duties, daily attendance, and salaries. This return was also to oblige the Duke, sent to him, I presume for the edification of the Treasury officials. Another return was obtained of the number of days I and other Judges sat during the year, and thus your staff had all the information which an inquirer after truth could require to enable him to prepare his plans of legislation, or, perhaps I should say, departmental demolition.

Having regard to the proved increase of civil business in the Court of Queen's Bench, a question must be asked, "How is this business to be transacted?" I answer in accordance with and in obedience to the provisions of the Act of Parliament. If a useful officer, whose place must be supplied, drops dead, what am I to do with the Act of the 30 & 31 Viet. c. 129, s. 42, staring me in the face: Am I to obey the law, and execute the trust reposed in me, or am I to consult with the Treasury officials, not with the Law Officers and Lord Chancellor, how I should act, having regard to their future plans of effecting "extensive modifications," in the offices of the superior courts of law? The illegality and absurdity of such a course must strike your eminently practical mind. There is no safe course to pursue in a country governed by law, but to obey the law as it exists with unswerving fidelity. You must excuse me for informing you that the Court of Queen's Bench is not a department of the Treasury, and that the Chief Justice, who happens to be the first magistrate in this kingdom, is unaccustomed to receive admonitions as to how he is to fulfil his duty.

By various Acts of the Legislature, duties are cast upon the Court of Queen's Bench exclusively, which the judges find can only be discharged by dividing the court and the business, as we have authority to do, and as, in the face of the profession and the public, we have done.

Touching one part of the last paragraph of your letter, namely, the future designs of the Treasury upon the departments in this and the other (still existing) superior courts of law in Ireland, I do not presume to offer an opinion. I have not the remotest conception of what your "extensive modifications" may be. They will, as I collect from the tone of your communication, be worked out without appeal to judicial authority, and without the guidance of judicial experience. Upon such prospective modifications I do not venture a remark, and if either I, or any other judge on the common law bench in Ireland, did hazard a suggestion, we are all certain it would be received without much favour, and treated with small respect. To us, the judges, is assigned by the Constitution the task of administering, under peculiar difficulties, the civil and criminal justice of this distracted kingdom. Yet, from recent events, and even from the tenor of such communications as yours, it would seem as if the very Government, whose just authority we strive to uphold, regards the institution to which we belong and its several departments as a vast job, and to be dealt with as such. Here am I, the Chief Justice of this kingdom, called to account by Treasury officials, for the appointment, under the Statute, of a petty clerk, whose services I know to be required, and I am informed by you, Sir, that no respect will be paid hereafter to my appointment, and that care will be taken by *ex post facto* legislation for Ireland, with which we are threatened, to strip an humble, but thoroughly respectable person, of the rights which the existing statute law gives him, and to disregard the judicial authority by which he was duly appointed. This and more in the same line may be accomplished, but it will be done against the existing law of the land, and will be no less unjust in practice than revolutionary in principle. This is not the case of a Treasury appointment, in which terms might be made and conditions imposed upon

upon the candidate, but it is a necessary appointment, by judicial authority, under the imperative enactment of a Statute.

I am, &c.
(signed) *James Whiteside,*
Chief Justice of Ireland.

W. H. Smith, Esq.,
Secretary to the Treasury,
Whitehall, London.

— No. 4. —

(8903—76.)

The Secretary of the Treasury to the Lord Chief Justice of Ireland.

My Lord,

Treasury Chambers, 2 June 1876.

I AM directed by the Lords Commissioners of Her Majesty's Treasury to acknowledge the receipt of your Lordship's letter of 22nd ultimo, replying to the communication from this Board of 18th ultimo, in regard to the recent nomination to the vacancy in the office of junior third-class clerk in the Court of Queen's Bench, Ireland.

My Lords do not desire further to discuss the questions referred to in that communication, except to state that it was not written with any intention, as you appear to consider it may have been, to dictate to your Lordship the course which you should follow in regard to appointing to this office, but only to make known the decisions which their Lordships considered it their duty to take, having regard to pending legislation, and to the state of the business of the Courts, as shown by the returns to which your Lordship refers, and by the annual judicial statistics.

My Lords would add, in reply to your Lordship's reference to the evidence of the Masters of the superior courts, to which they had drawn attention, that you will find this evidence and opinions at page 92 of the Appendix to the Second Report of the English and Irish Law and Chancery Commission, presented to Parliament in 1866, and that the present Master of the Court of Queen's Bench was not then in office, and was not, therefore, called upon to give any opinion or evidence.

The Lord Chief Justice,
Queen's Bench, Ireland.

I am, &c.
(signed) *W. H. Smith.*

QUEEN'S BENCH, IRELAND
(MR. BLACKMAN).

COPY of a Communication between the Treasury
and the Lord Chief Justice of Ireland with
respect to the Appointment of the Masters to
the Office in the Court of Queen's Bench in
Ireland.

(18th Decr.)

Ordered by The House of Commons, to be Printed,
in July 1776.
